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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,224	04/16/2004	Steve Davis	5145.21	1172
7590		02/28/2006	EXAMINER	
LaValle D. Ptak		OKEZIE, ESTHER O		
28435 N. 42nd St., Ste. B		ART UNIT		
Cave Creek, AZ 85331		PAPER NUMBER		
		3652		

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/826,224	DAVIS, STEVE	
	Examiner	Art Unit	
	Esther O. Okezie	3652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-18, 23-33 and 35 is/are rejected.
- 7) ☒ Claim(s) 13, 14, 19-22, 26 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's remarks filed 12/12/05 has been fully considered but are not persuasive

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Jordan.
2. Re claim 1, Jordan discloses clamping plates comprising: a main plate (40) having front, rear, upper, and lower edges; an auxiliary plate (46) overlying the main plate member and extending from the lower edge of the main plate member substantially toward the upper edge of the main plate, and extending substantially from the rear edge of the main plate member to the front edge thereof, with the auxiliary plate removably attached to the main plate member by countersunk bolts or bonding (col. 3, lines 31-34); and a yieldable friction material (44,48) over substantially the major portions of the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate. Note: countersunk bolts are removable
3. Re claim 2 and 3, the yieldable friction material as cut-resistant rubber, a resilient compressible material (col. 3, lines 9-11).

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4. Re claim 4, the yieldable friction material is bonded to the auxiliary plate and the portion of the main plate not covered by the auxiliary plate (col. 3, lines 9-34; fig 3).
5. Re claim 23, the main plate and auxiliary plate are made from aluminum (col. 2, lines 50-55).
6. Re claim 24, the yieldable friction material bonded to the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate (fig 3).
7. Re claim 25, recessed bolts for removably attaching the auxiliary plate to the main plate (col. 3, lines 31-34).
8. Re claim 27, Jordan discloses clamping plates comprising: a main plate (40) having front, rear, upper, and lower edges; an auxiliary plate (46) overlying the main plate member and extending from the lower edge of the main plate member substantially toward the upper edge of the main plate, and extending substantially from the rear edge of the main plate member to the front edge thereof, with the auxiliary plate removably attached to the main plate member by countersunk bolts or bonding (col. 3, lines 31-34); and a yieldable friction material (44,48) over substantially the major portions of the auxiliary plate and the portion of the main plate member not covered by the auxiliary plate.
9. Re claim 28, the yieldable friction material as cut-resistant rubber, a resilient compressible material (col. 3, lines 9-11).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-12, 15-18, 27-33,35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Link in view of Jordan.

11. Re claim 1, Link discloses a main plate member (78) having a front, rear, upper, and lower edges, an auxiliary plate (reinforcing plate 80) overlying the main plate and extending from the lower edge of the main plate a predetermined distance toward the upper edge thereof and extending from the rear edge of the main plate, with the auxiliary plate removably attached to the main plate (see figure 4); and yieldable friction material (140) over substantially the major portions of the auxiliary plate and the portions of the main plate not covered by the auxiliary plate (see figs 1 and 2; col. 5, lines 1-11).

Link does not disclose the auxiliary plate (80) extending to front edge of the main plate (78) and substantially along the entire bottom portions of the main plate. Jordan discloses an additional thin strip of metal (44) attached to the main plate (40) so as to extend longitudinally of and adjacent the bottom corner portion of the main plate. Link discloses the reason for utilizing this additional thin strip of metal along the bottom corners of the main plate in column 3, lines 59-70:

“Use of single thickness facing material or materials over the entire surface of the platen, as provided prior to this invention, tended to result in an unequal distribution of clamping force, but also facilitated a tendency of the carton when clamped to pivot or rotate forwardly out of the clamped attachment

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as a result of the major holding force being applied along the bottom corner portions of the carton, the carton being unsupported at the front side thereof, or, if sufficient clamping force was applied to avoid the above tendency, the bottom corner portions of the carton where frequently crushed.”

Therefore it would have been obvious to one of ordinary skill in the art to extend the reinforcing plate of Link as taught by Jordan to the forward bottom corner of the main plate in order to reduce wear on the bottom corner portions of the plate that come into contact with the load whereupon it is known in the art that the most excessive wear occurs.

12. Re claim 2 and 3, the yieldable friction material as vulcanized rubber, a resilient compressible material (col. 5, lines 1-11).

13. Re claim 4, the yieldable friction material is bonded to the auxiliary plate and the portion of the main plate not covered by the auxiliary plate (figs 1 and 2).

14. Re claim 5, the yieldable friction material is a rubber material having a plurality of closed spaced grooves in it extending parallel to one another between the front and lower edges of the main plate member and substantially parallel to the upper and lower edges of the main plate (see figs 1 and 2).

15. Re claim 6, Link discloses the yieldable friction material (140) is of minimum thickness and the entire thickness of the clamp pad and the support arm is about 1.5 inches. Although it would be quite reasonable to assume the thickness of the yieldable rubber material would be

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within 5/8 to 1.25 inches since the overall thickness of the entire clamping plate is only 1.5 inches, Link does not disclose the exact thickness of the yieldable friction material (140). It would have been obvious to one of ordinary skill in the art to construct the yieldable rubber material with minimum thickness and the overall clamping pad with the least minimum thickness in order to for the clamping plates to be capable of storing cartonized loads side by side with minimum spacing between the cartons thereby minimizing carton storage space (col 1, lines 10-18).

16. Re claim 7, Link does not disclose the material from which the plates are made although they can be reasonably assumed to be metal since welding of the plates is mentioned (col. 3, line 24).

Jordan discloses both the auxiliary plate (460 and the main plate (40) made from aluminum (col. 2, lines 50-55). It would have been obvious for one of ordinary skill in the art to fabricate the plates of Link from aluminum as taught by Link because aluminum would provide "low weight, and minimum thickness, thereby permitting the attachment to be used in areas of small clearance or spacing between load stacks" (Jordan: col. 2, lines 50-55). Minimum thickness is the primary objective of Jordan as stated in the background and summary of the invention (col. 1, lines 1-57).

17. Re claim 8, Link discloses recessed bolts (86) for removably attaching the auxiliary and main plates (see fig 4).

18. Re claim 9, Link discloses the auxiliary plate (80) having a front edge and a rear edge, with the rear edge thereof substantially terminating in the same plane as the rear edge of the main plate and the front edge of the auxiliary plate terminating a short distance from the front edge of

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the main plate member (see fig 3), and a wear resistant nose (tapered front edges 81 and 83) attached to the main plate between the front edge thereof and the front edge of the auxiliary plate.

Re claims 10 and 11, Link discloses the front edge of the nose piece (83) is tapered from the front edge of the main plate outwardly from the main plate. Link does not disclose the nose piece (81 and 83) are made from aluminum for wear resistance. Jordan discloses aluminum reinforcement plates. It would have been obvious to one of ordinary skill in that art to construct the nose pieces of Link from aluminum as taught by Jordan because aluminum would provide "low weight, and minimum thickness, thereby permitting the attachment to be used in areas of small clearance or spacing between load stacks" (Jordan: col. 2, lines 50-55). Minimum thickness is the primary objective of Jordan as stated in the background and summary of the invention (col. 1, lines 1-57).

19. Re claim 12, the thickness of the combination of the auxiliary plate and the yieldable friction material thereon is greater than the maximum thickness of the nose piece (fig 3).

20. Claims 15-18 are discussed above, as they are identical to claims 9-12.

21. Claim 27-33, and 35 are discussed above, as they are substantially identical to claims 1-12

#### ***Allowable Subject Matter***

Claims 13,14,19-22,26,34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



***Response to Arguments***

Applicant's arguments with respect to claims 1-35 have been considered but are not persuasive.

Applicant has argued that the auxiliary plate of Jordan is bonded permanently to the main plate and not removably attached. Jordan clearly discloses the auxiliary plate (46) is removably attached to the main plate by countersunk bolts as well as permanently attached by bonding. See column 3, lines 31-34: "In practice it has been found desirable also to secure the facing materials to the platens by means of countersunk bolts, not shown, in addition to securing the same by bonding." The facing materials include cut resistant rubber 44 and thin strip of metal 46. See column 3, lines 7-17: "The manner in which I have combined materials for facing the platens minimizes such advantages. In the embodiment of my invention shown in FIGS. 1-3, I utilize a relatively narrow strip of relatively thin, hard and cut-resistant rubber 44 having a rough top or friction type surface which provides a relatively high degree of gripping ability. This material is preferably bonded to a thin strip of metal 46 which is in turn bonded to the inner surface of each platen 40 so as to extend longitudinally of and adjacent the bottom corner portion of each platen as shown in FIGS. 1-3."

Consequently, the facing materials on the platens (40) are clearly described as cut resistant rubber 44 and thin strip of metal 46; the facing materials can be secured by countersunk bolts on the platens (40); and countersunk bolts are clearly removable.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

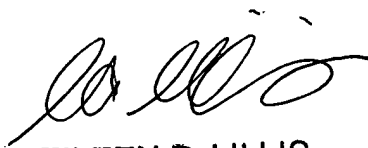
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO 2/20/06



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